

To: Wilson Karen[Karen.L.Wilson@usdoj.gov]
From: Levine, Carolyn
Sent: Sat 8/15/2015 12:13:25 AM
Subject: Inquiry from Senator Heinrich's staff re: Claims Process Issue Related to Gold King Mine

Hi Karen,

See inquiry below. Do you have a DOJ torts legislative POC for Senator Heinrich's staff?

Carolyn Levine
U.S. EPA
Office of Congressional Affairs
(202) 564-1859

Begin forwarded message:

From: "Rodriguez, Ernesto (Heinrich)" <Ernesto_Rodriguez@heinrich.senate.gov>
Date: August 14, 2015 at 7:07:18 PM EDT
To: "Maier, Brent" <Maier.Brent@epa.gov>, "Levine, Carolyn" <Levine.Carolyn@epa.gov>
Cc: "Quast, Sylvia" <Quast.Sylvia@epa.gov>, "Keener, Bill" <Keener.Bill@epa.gov>, "Sullivan, Michael (Heinrich)" <Michael_Sullivan@heinrich.senate.gov>
Subject: RE: EPA Follow Up on Claims Process Issue Related to Gold King Mine

Brent, thank you for reaching out to me on this, and for getting back to me before the weekend. This is an important matter to us, and I appreciate your efforts to get back to me quickly.

Carolyn,

I spoke with Brent this afternoon and he provided me with this information, but in conversing with Brent we decided that my office's request is going to be best addressed by the Department of Justice. We are looking for specific guidance from DOJ on SF 95; the Attorney General of the Navajo Nation is requesting that DOJ provide the Nation with formal guidance regarding whether a claimant will limit or waive future rights by using SF 95 to file a claim under FTCA.

I know that you are with EPA's Waste and Enforcement team in DC, but my hope is that you will point me in the right direction to get this in front of the right eyes at DOJ. I think that it would probably need to be someone at DOJ's torts branch, in the FTCA division. Can you help me get into contact with the right person over there?

I have cc'd Senator Heinrich's state outreach director, Michael Sullivan, on this email to keep him in the loop on this.

Again, thank you all for your quick responses on this issue. This issue is extremely important to Sen. Heinrich, and whatever help you can give us to get this in front of the right people faster is going to be a huge help.

Sincerely,

Ernesto Rodriguez

Legislative Assistant | Office of U.S. Senator Martin Heinrich of New Mexico

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From: Maier, Brent [mailto:Maier.Brent@epa.gov]
Sent: Friday, August 14, 2015 6:56 PM
To: Rodriguez, Ernesto (Heinrich)
Cc: Quast, Sylvia; Levine, Carolyn; Keener, Bill
Subject: EPA Follow Up on Claims Process Issue Related to Gold King Mine

Ernesto Rodriguez, Legislative Assistant

Office of Senator Martin Heinrich

Ph: 202-228-1609

Ernesto -

Nice talking with you. As promised here is the information we discussed regarding your reaching out to my EPA Region IX Regional Counsel colleague, Sylvia Quast, who alerted me about the claims form issues that have been inaccurately reported in the press. I wanted to let you know that EPA is working on some Agency FAQs that will cover more of the claims process and they will be posted on the Gold King Mine website (link below) in the next few days.

EPA has put together the following statement regarding the claims process to address some of the inaccuracies in the press which I want to share with you here as well.

EPA is not offering immediate reimbursements for damages from the Gold King Mine water and it is not true that if someone submits a claim that by doing so they limit or waive future rights.

EPA's Federal Tort Claims Act (FTCA) regulation provides that a person may amend their claim form at any time prior to reaching a settlement with EPA, or

before the person files a lawsuit under the FTCA. Additionally, a person claiming an injury or damage has two years from the date of the event to file a claim with EPA under the FTCA. (40 CFR Part 10).

While EPA has made Form 95 available for filing a claim, EPA has also noted on the Region 8 website that:

"Standard Form 95 is not required to present a claim under the FTCA, but it is a convenient format for supplying the information necessary to bring an FTCA claim. Please note that a completed form must state a claim for money damages in a "sum certain" amount (that is, a specific amount) claimed for personal injury, death, or injury to or loss of property."

For the latest information on the response to the Gold King Mine release please link to www.epa.gov/goldkingmine

There is a daily conference call (Monday – Friday) scheduled for **1:00pm – 1:30pm PT (4:00pm – 4:30pm ET)** coordinated by EPA Region 8 in Denver to update Congressional staff, elected officials and other state and local representatives on EPA activities in follow up to the Gold King Mine Release.

Please call in for the latest information.

Call-In Number: 866-299-9141

Conference Code: 85790886#

Regards,

Brent Maier
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